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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,932	07/09/2001	George G. Clarke	01887587	8566

7590

06/19/2003

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EXAMINER

DIXON, MERRICK L

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1, 5, 6, 19, 22, 25-29, 31-48 is/are pending in the application.
- Of the above, claim(s) 19, 22, 25, 39-44 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 5, 6, 26-29, 32-38, 45-48 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

MERRICK DIXON
PRIMARY EXAMINER

-- SEE OFFICE ACTION ON THE FOLLOWING PAGES --

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Applicants's election of claims 1,5,6,26-29,32-38 and 45-48, is acknowledged. Applicants traversed said restriction , contending that no serious burden would be experienced by the examiner by searching all claims in the application. The examiner respectfully disagrees. It is submitted that , indeed the additional searches for the classes and subclasses of the non elected claims would indeed prove a serious burden to the examiner.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1,5,6,26-29,32-38 and 45-48 are s rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison(3959556) in view of Pike et al(5759926).

The cited primary reference teaches the basic claimed invention including an antimicrobial material comprising a first yarn with selectable denier and a second yarn comprising antimicrobial fibers engaged with the said aforementioned first yarn- col 2, lines 14-34; col 2, lines 60- col 3, line 5; col 3, lines 10-25. Although the primary reference teaches that it is known in the art to select

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fibers of specific deniers- col 4, lines 21-26, the secondary reference more clearly teaches this aspect- col 2, lines 60-65; see entire reference. It would have been obvious to one of ordinary skill in the art at the time the invention is made to combine the teachings of the secondary reference and facilitate the primary reference with fibers of similar deniers, as taught by the secondary reference, in the absence of unexpected results and to impart desired properties to the resulting product- see secondary reference- col 5, lines 29-41. Concerning claims 27,36 and 47, the secondary reference teaches the claimed invention in col 2, lines 20-26. Concerning claims 5 and 6, the cited primary reference teaches the claimed limitations in col 2, lines 50-59. Concerning claims 35,38 and 46, the primary reference teaches the claimed limitations in col 3, lines 41-49. Concerning claims 29 and 32, the cited primary reference teaches the claimed limitations in col 4, lines 25-34. Concerning claims 28,37 and 48, the cited reference teaches the claimed limitations in col 3, lines 16-18.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Szucs(3699958) and Sun et al(5882357) are cited of interest for their respective teachings and to show the state of the art..

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Crystal Plaza Three Fax Center

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A facsimile center has been established in Crystal Plaza 3. The hours of operations are Mondays through Friday, 8:45 to 4:45 PM. This new location should be used in all instances when faxing any correspondence to Group 1700. The Patent Examining Fax Center new telecopier numbers are (703) 305-3599 for all After Finals and 703-305-5408 for all others. Use of the new Crystal Plaza 3 center will facilitate rapid delivery of materials to the group. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989).

New! Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can now do so by using the Examiner Dixon's personal fax number at 703-872-9514. **NOTE: All facsimiles sent to the examiner's personal fax number should be in draft-forms and will be treated as informal. Same facsimiles will not be entered in the related applications unless otherwise noted by the examiner.**

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose number is (703)308-0661.

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Any questions concerning the instant communication should be directed to Examiner Dixon, at
703-308-0013, Mondays to Thursdays, between 12 noon and 8 PM, eastern time .

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a stylized, cursive script.

Merrick Dixon

Primary Examiner

Group 1700